THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.24814 of 2006

29.11.2006

Between:

Nalamati Ramakrishna, S/o.Surya Rao
And others

... Petitioners

AND

The District Collector, West Godavari District at Eluru
And others

... Respondents

THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.24814 of 2006

ORDER:

The petitioners herein are residents of Umamaheshwaram village of Pentapadu Mandal in West Godavari District. They allegedly own agricultural lands in Jetlapalem village and use Puntha/Pathway comprised in survey Nos.186, 269, 272, 273, 274 and 275/1 of the village. They filed W.P. No.19927 of 2006 seeking a writ of Mandamus declaring the action of the respondents in attempting to assign said Puntha in favour of landless poor persons as illegal and arbitrary. By an order dated 25.9.2006, this Court dismissed the said writ petition as premature giving liberty to the petitioners to approach this Court as and when such an order is passed. The third respondent is now issued pattas to about 120 persons admeasuring about Acs.0.0½ cent each. Aggrieved by the same, the present writ petition is filed.

Learned Counsel for the petitioners vehemently contends that it is not permissible to assign Puntha either for agricultural purpose or as house site. Secondly, he would submit that even before assignment is made, petitioners made a representation to the third respondent and non-consideration of the same would render the assignment of Puntha as house sites is illegal. Lastly, he submits that the petitioners use Puntha as ingress and egress from their village Umamaheshwaram to go to the agricultural lands situated at Jetlapalem village and if the Puntha is assigned, they would be deprived of their right to cultivate their lands.

The writ petition cannot be accepted for reasons more than one. Though the land was assigned to as many as 120 persons except enclosing a Xerox copy of patta dated 20.10.2006 issued in favour of Ravi Mangayamma and Goraparthi Vijayalakshmi, all the assignees are not made parties to the writ petition. Applying the ratio in the decisions of the Supreme Court in **Prabodh Verma v State of U.P.**[1], **Iswar Singh v Kuldip Singh**[2], **Arun Tewari v Zila Mansavi Shikshak Sangh**[3] and **All India SC & ST Employees Assn., v A.Arthur Jeen**[4], this Court holds that a writ cannot be issued in the absence of the parties, who directly would be affected by exercise of the writ jurisdiction. Secondly, the petitioners have an effective alternative remedy by way of appeal before the jurisdictional Revenue Divisional Officer under para 15 of Board Standing Orders (BSO) 15 or if the petitioners allege that the assignment was obtained by any of the

persons by misrepresentation or fraud, they can file revision before the Joint Collector under para 18 of BSO 15. The petitioners did not avail any of the remedy. Thirdly, though the petitioners allege that their representation was not considered by the Mandal Revenue Officer (MRO), Pentapadu Mandal, third respondent herein, the proceedings of the MRO is not filed before this Court to appreciate such contention. Unless this Court is shown the proceedings or the order of the MRO, in which a decision is taken to assign the land wherein Puntha is situated, the petitioners' contention cannot be countenanced. The petitioners may approach the jurisdictional Revenue Divisional Officer by way of appeal or the Joint Collector by way of a revision petition. In this writ petition, no relief can be granted.

The writ petition, with the above observations, is accordingly dismissed. No costs.

November 29, 2006 (**V.V.S.RAO, J**)
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[1] AIR 1985 SC 167

[2] 1995 Supp.(1) SCC 179

[3] AIR 1998 SC 331

[4] AIR 2001 SC 1851 = (2001) 6 SCC 380